

DIVISION OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH

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IN THE MATTER OF FACTORY	:	NOTICE OF EXEMPTION
BUTTE MINERAL PROJECT,	:	
UTAH STATE COAL LEASE	:	CAUSE NO. S/055/006
ML-45082, LOCATED IN	:	
SECTION 2, TOWNSHIP 27 SOUTH,	:	
RANGE 9 EAST, SLBM, WAYNE	:	
COUNTY, UTAH	:	

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THE STATE OF UTAH TO ALL OPERATORS, TAKERS OF PRODUCTION,
MINERAL AND ROYALTY OWNERS.

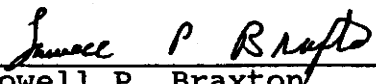
Notice is hereby given to interested persons that based on information provided by Dick Shumway, the Utah Division of Oil, Gas and Mining has reason to believe that the extraction of humic shale and carbonaceous product proposed by Dick Shumway for portions of Section 2, Township 27 South, Range 9 East, SLBM, Wayne County, Utah, may qualify as an exemption from regulation under the Utah Coal Regulatory Program. The basis for the qualification for exemption is noncommercial use as defined in Utah Admin. Code R. 645-100-400. Should the Division of Oil, Gas and Mining make the determination of exemption as proposed, reclamation of mining disturbances will still be required under the provisions of the Utah Mined Land Reclamation Act, Utah Code Ann. § 40-8-1 et seq.

Persons wishing to comment on this proposed Division decision should address written comments to: Lowell Braxton, Associate Director, Mining, Utah Division of Oil, Gas and Mining, 3 Triad Center, Suite 350, 355 West North Temple, Salt Lake City, Utah 84180-1203, within 30 days of the date of this publication.

Pursuant to the Americans with Disabilities Act, persons requiring auxiliary services to enable them to provide written comments should call Janice L. Brown at 538-5340 at least three working day prior to the 30th day following publication of this announcement.

DATED THIS 4th DAY OF JANUARY, 1993.

STATE OF UTAH
DIVISION OF OIL, GAS AND MINING



Lowell P. Braxton
Associate Director, Mining

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DIVISION OF
OIL GAS & MINING

AFFIDAVIT OF DICK SHUMWAY FOR PURPOSES
OF QUALIFYING FOR EXEMPTION FROM
REGULATION UNDER THE UTAH COAL REGULATORY PROGRAM

The undersigned, Dick Shumway, being duly sworn under oath, deposes and states as follows:

1. I am the operator of the Factory Butte Mineral Project, under DOGM file #, S/055/066, and under Utah State Coal Lease ML-45082 located in Section 2, Township 27 South, Range 9 East, SLBM, Wayne County, Utah (the "State Lease").

2. As operator of the Factory Butte Mineral Project, I intend to extract humic shale from lands underlying the State Lease.

3. I attest and affirm that any humic shale, coal or other carbonaceous products that I, or any other person or entity, extract from lands underlying the State Lease will be for my personal, noncommercial use as defined in Utah Admin. Code R645-100-400.

4. I further attest and affirm that I am aware that any exemption I receive from the Utah Division of Oil, Gas and Mining under the Utah Coal Regulatory Program, will not exempt me from any and all reclamation obligations imposed by the Utah Mined Land Reclamation Act, codified at Utah Code Ann. § 40-8-1 et. seq.

DATED this 18 day of December, 1992.

STATE OF UTAH

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COUNTY OF SALT LAKE

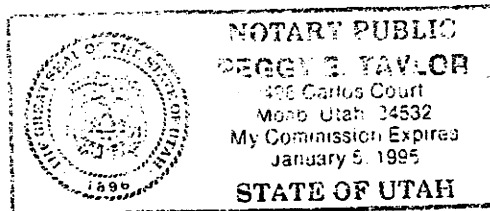
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I, DICK SHUMWAY, being first duly sworn, hereby state that I have read the foregoing AFFIDAVIT OF DICK SHUMWAY and that the same is true to the best of my knowledge, information and belief.


DICK SHUMWAY

Subscribed and sworn to before me this 18 day of December, 1992.


NOTARY PUBLIC



through R645-301-526.115.4 and according to the findings required by R645-300-130.

424. An existing structure which does not meet the performance standards of the MC Rules and which the applicant proposes to use, in connection with or to facilitate the coal exploration or coal mining and reclamation operation, will be modified or reconstructed to meet the performance design standards of R645-301 and R645-302 prior to issuance of the permit.
430. The exemptions provided in paragraphs R645-100-421 and R645-100-422 will not apply to:
431. The requirements for existing and new coal mine waste disposal facilities; and
432. The requirements to restore the approximate original contour of the land.
440. Regulatory Determination of Exemption. The Division may, on its own initiative, and will, within a reasonable time of a request from any person who intends to conduct coal mining and reclamation operations, make a written determination whether the operation is exempt under R645-100-400. The Division will give reasonable notice of the request to interested persons. Prior to the time a determination is made, any person may submit, and the Division will consider, any written information relevant to the determination. A person requesting that an activity be declared exempt will have the burden of establishing the exemption. If a written determination of exemption is reversed through subsequent administrative or judicial action, any person who, in good faith, has made a complete and accurate request for an exemption, and relied upon the determination, will not be cited for violations which occurred prior to the date of the reversal.

645-100-450. Termination of Jurisdiction

451. The Division may terminate its jurisdiction under the regulatory program over the reclaimed site of a completed coal mining and reclamation operation, or increment thereof, when:

451.100. The Division determines in writing that under the initial program all requirements imposed under the MC rules have been successfully completed; or

451.200. The Division determines in writing that under the permanent program all requirements imposed under the applicable regulatory program have been successfully completed or, where a performance bond was required, the Division has made a final decision in accordance with the State program to release the performance bond fully;

452. Following a termination under R645-100-451, the Division will reassert jurisdiction under the regulatory program over a site if it is demonstrated that the bond release or written determination referred to under R645-100-451 was based upon fraud, collusion, or misrepresentation of a material fact by the permittee.

645-100-500. Petition to Initiate Rulemaking.

Petitions to initiate rulemaking should proceed pursuant to the R641 and the Utah Administrative Rulemaking Act, U.C.A. 63-46-8.

645-100-600. Notice of Citizen Suits.

A person who intends to initiate a civil action in his or her own behalf under 40-10-21 of the Act will give notice of intent to do so in accordance with R645-100-600.

610. Notice will be given by certified mail to the Director, if a complaint involves or relates to Utah.
620. Notice will be given by certified mail to the alleged violator, if the complaint alleges a violation of the Act or any rule, order, or permit issued under the Act.
630. Service of notice under R645-100-600 is complete upon mailing to the last known address of the person being notified.
640. A person giving notice regarding an alleged violation will state, to the extent known:
641. Sufficient information to identify the provision of the Act, rule, order, or permit allegedly violated;
642. The act or omission alleged to constitute a violation;
643. The name, address, and telephone number of the person or persons responsible for the alleged violation;
644. The date, time, and location of the alleged violation;
645. The name, address, and telephone number of the person giving notice; and
646. The name, address, and telephone number of legal counsel, if any, of the person giving notice.
650. A person giving notice of an alleged failure by the Director to perform a mandatory act or duty under the Act will state, to the extent known:
651. The provision of the Act containing the mandatory act or duty allegedly not performed;
652. Sufficient information to identify the omission alleged to constitute the failure to perform a mandatory act or duty under the Act;
653. The name, address, and telephone number of the person giving notice; and
654. The name, address, and telephone number of legal counsel, if any, of the person giving notice.

R645-100-700. Availability of Records.

710. Records required by the Act to be made available locally to the public will be retained at the Division office closest to the area involved.
720. Other nonconfidential records or documents in the possession of the Division may be requested from the Division.
730. Information received which is required to be held confidential by the terms of the Act will not be available for public inspection.

R645-100-800. Computation of Time.

810. Except as otherwise provided, computation of time under the R645 Rules is based on calendar days.